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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

In re J.W., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

J.W.,

Defendant and Appellant.

A155562

(Contra Costa County
Super. Ct. No. J1800697)

J.W. appeals from a dispositional order declaring him a ward of the juvenile court, committing him to placement at the Orin Allen Youth Rehabilitation Facility Ranch (Ranch) for six months, and placing him on probation with various conditions. His attorney has filed a brief seeking our independent review of the appellate record, pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), to determine whether there is any arguable issue on appeal. J.W. was apprised of his right to file a supplemental brief, but he did not do so. Having reviewed the record, we find no arguable issues and affirm.

BACKGROUND

An amended wardship petition under Welfare and Institutions Code section 602 alleged that on June 20, 2018, J.W., who was then 16 years of age, unlawfully drove a vehicle (Veh. Code, § 10851, subd. (a), (count 1)); received a stolen motor vehicle (Pen. Code, § 496d, (count 2)); and drove without a license (Veh. Code, § 12500, subd. (a),

(count 3)); and that on April 23, 2018, he committed misdemeanor battery on school property (Pen. Code, §§ 242, 243.2, subd. (a)(1), (count 4)).

A second amended petition alleged that on August 23, 2018, J.W. committed the following three additional felony offenses: attempted second degree robbery (Pen. Code, §§ 211, 212.5, subd. (a), 664, (count 5)); dissuading a witness by force or threat (Pen. Code, § 136.1, subd. (c)(1) (count 6)); and threatening a witness (Pen. Code, § 140, (count 7)). J.W. ultimately entered a no contest plea to unlawfully driving a vehicle (count 1) and threatening a witness (count 7). The remaining allegations were dismissed.

The probation report summarized J.W.'s offenses as follows: On April 26, 2018, a school resource officer viewed a video of J.W. hitting another student, D.S. J.W. waived his *Miranda*¹ rights and told the school resource officer, "I punched first[,] I guess," but he did not explain why he had struck D.S. D.S. told the assistant principal that he did not want to fight, but J.W. was adamant in his desire to fight D.S.

On June 20, 2018, police conducted a traffic stop on a stolen car driven by J.W. J.W. again waived his *Miranda* rights and told police that his friend, known only as "Flaca," told him to "hold onto" the car and that Flaca left it "running" at his place.² J.W. could not remember Flaca's address, and he did not see Flaca leave the vehicle, which had no ignition key. J.W. and Flaca communicated only by Snapchat, a social media platform.

On August 10, 2018, the juvenile court orally ordered J.W. to have no contact with D.S. However, approximately two weeks later, J.W. was again caught on video fighting D.S. D.S. told the school resource officer that he was walking to a store when J.W. blocked his path and instigated the fight. Two witnesses corroborated D.S.'s account.

Despite videotaped evidence and eyewitness testimony indicating that J.W. was the instigator and aggressor, he considered both incidents with D.S. to be mutual combat situations. The probation officer noted J.W.'s extensive disciplinary record, including

¹ *Miranda v. Arizona* (1966) 384 U.S. 436 (*Miranda*).

² It is unclear from the record whether the car was left outside of J.W.'s or Flaca's house.

being suspended and receiving numerous behavior referrals for class disruption, offensive language, defiant behavior, and inappropriate cellular phone use.

J.W. reported that he began smoking marijuana at age 10 and currently smoked two marijuana joints per day. J.W.'s father was aware of his son's chronic marijuana use but did not impose any consequences for this behavior. J.W. began living with his father on a full-time basis about five months before the delinquency proceedings commenced. J.W.'s mother's whereabouts were unknown. In light of the serious nature of J.W.'s offenses, his drug abuse, and his family's instability, the probation officer recommended a six-month commitment at the Ranch.

At the disposition hearing, the juvenile court expressed concern about J.W.'s marijuana use and his "extraordinary discipline record at school." The court noted that although this was J.W.'s first time in juvenile court, J.W.'s disciplinary record established that "his behavior is so out of control that it warrants pretty swift and intensive intervention" for him to be successful. The court found that J.W. had demonstrated no insight into his conduct and had accepted no responsibility for his behavior. The juvenile court declared a wardship without a termination date and committed J.W. to the Ranch for six months. The court ordered J.W. to serve the first 45 days of his release from the Ranch on home supervision, followed by probation subject to various conditions. The court imposed the following electronic search condition: "You must submit your cell phone and any other electronic device under your control to a search of any medium of communication reasonably likely to reveal whether you're complying with the terms of your probation, with or without a . . . warrant, at any time of day or night. Such medium of communication includes text messages, voice mail messages, call logs, photographs, email accounts, and other social media accounts and applications, such as Snapchat, Instagram, Facebook, and Kik. You must provide access codes to probation or any other peace officer upon request to effectuate the search." The court ordered J.W. to pay a \$150 restitution fine.

DISCUSSION

Upon our own independent review of the record, we find no arguable issue on appeal. (*Wende, supra*, 25 Cal.3d 436.) J.W. was represented by counsel throughout the proceedings. In accepting his plea, the court properly advised him of his constitutional rights, and he voluntarily waived each of them. The court advised J.W. of the consequences of his plea and determined it was freely, voluntarily, and knowingly made. The court found that there was a factual basis for the plea. The court concluded, in accordance with the probation officer's recommendation, that J.W. needed intensive supervision to help him succeed, and substantial evidence supports this conclusion. The court did not abuse its discretion in placing J.W. at the Ranch. (See *In re Angela M.* (2003) 111 Cal.App.4th 1392, 1396.) The court considered the appropriate dispositional factors (see Welf. & Inst. Code, § 725.5; *In re John F.* (1983) 150 Cal.App.3d 182, 185) and made the findings required by Welfare and Institutions Code section 726, subdivision (a). The restitution fine was proper. (Welf. & Inst. Code, §§ 730.6, subd. (b)(1), 730.7, subd. (a).) The probation conditions are not constitutionally defective, and counsel did not object on overbreadth grounds. (See *In re P.O.* (2016) 246 Cal.App.4th 288, 295–299.)

Having ensured that J.W. received adequate and effective appellate review, we affirm the juvenile court's dispositional order. (*Wende, supra*, 25 Cal.3d 436.)

DISPOSITION

The judgment is affirmed.

BROWN, J.

WE CONCUR:

POLLAK, P. J.

STREETER, J.